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1ST SESSION

S. 325

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 13, 1995

Referred to the Committee on Resources, and in addition to the Committees on Economic and Educational Opportunities, Commerce, the Judiciary, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

AN ACT

To make certain technical corrections in laws relating to
Native Americans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. CORRECTION TO POKAGON RESTORATION ACT.**

2 Section 9 of the Act entitled “An Act to restore Fed-
3 eral services to the Pokagon Band of Potawatomi Indians”
4 (25 U.S.C. 1300j–7a) is amended—

5 (1) by striking “Bands” each place it appears
6 and inserting “Band”;

7 (2) in subsection (a), by striking “respective”;
8 and

9 (3) in subsection (b)—

10 (A) in paragraph (1)—

11 (i) in the first sentence—

12 (I) by striking “membership rolls
13 that contain” and inserting “a mem-
14 bership roll that contains”; and

15 (II) by striking “in such” and in-
16 serting “in the”; and

17 (ii) in the second sentence, by striking
18 “Each such” and inserting “The”;

19 (B) in paragraph (2)—

20 (i) by striking “rolls have” and insert-
21 ing “roll has”; and

22 (ii) by striking “such rolls” and in-
23 serting “such roll”;

24 (C) in the heading for paragraph (3), by
25 striking “ROLLS” and inserting “ROLL”; and

1 (D) in paragraph (3), by striking “rolls are
2 maintained” and inserting “roll is maintained”.

3 **SEC. 2. CORRECTION TO ODAWA AND OTTAWA RESTORA-**
4 **TION ACT.**

5 (a) REAFFIRMATION OF RIGHTS.—The heading of
6 section 5(b) of the Little Traverse Bay Bands of Odawa
7 and the Little River Band of Ottawa Indians Act (25
8 U.S.C. 1300k–3) is amended by striking “TRIBE” and in-
9 serting “BANDS”.

10 (b) MEMBERSHIP LIST.—Section 9 of the Little Tra-
11 verse Bay Bands of Odawa and the Little River Band of
12 Ottawa Indians Act (25 U.S.C. 1300k–7) is amended—

13 (1) in subsection (a)—

14 (A) by striking “Band” the first place it
15 appears and inserting “Bands”; and

16 (B) by striking “the Band.” and inserting
17 “the respective Bands.”; and

18 (2) in subsection (b)(1)—

19 (A) in the first sentence, by striking “the
20 Band shall submit to the Secretary membership
21 rolls that contain the names of all individuals
22 eligible for membership in such Band” and in-
23 serting “each of the Bands shall submit to the
24 Secretary a membership roll that contains the

1 names of all individuals that are eligible for
2 membership in such Band”; and

3 (B) in the second sentence, by striking
4 “The Band, in consultation” and inserting
5 “Each such Band, in consultation”.

6 **SEC. 3. FEDERAL EMPLOYEES CONTRACTING OR TRADING**
7 **WITH INDIANS.**

8 (a) REPEAL.—Section 437 of title 18, United States
9 Code, is repealed.

10 (b) CONFORMING AMENDMENT.—The table of sec-
11 tions at the beginning of chapter 23 of title 18, United
12 States Code, is amended by striking the item relating to
13 section 437.

14 (c) EFFECTIVE DATE.—The repeal made by sub-
15 section (a) shall—

16 (1) take effect on the date of enactment of this
17 Act; and

18 (2) apply with respect to any contract obtained,
19 and any purchase or sale occurring, on or after the
20 date of enactment of this Act.

21 **SEC. 4. INDIAN DAMS SAFETY ACT OF 1994.**

22 Section 4(h) of the Indian Dams Safety Act of 1994
23 (108 Stat. 1562) is amended by striking “(under the In-
24 dian Self-Determination and Education Assistance Act
25 (25 U.S.C. 450b(e)), as amended,” and inserting “under

1 the Indian Self-Determination and Education Assistance
2 Act (25 U.S.C. 450 et seq.)”.

3 **SEC. 5. PASCUA YAQUI INDIANS OF ARIZONA.**

4 Section 4(b) of the Act entitled “An Act to provide
5 for the extension of certain Federal benefits, services, and
6 assistance to the Pascua Yaqui Indians of Arizona, and
7 for other purposes” (25 U.S.C. 1300f–3(b)) is amended
8 by striking “Pascua Yaqui tribe” and inserting “Pascua
9 Yaqui Tribe”.

10 **SEC. 6. INDIAN LANDS OPEN DUMP CLEANUP ACT OF 1994.**

11 Section 3(7) of the Indian Lands Open Dump Clean-
12 up Act of 1994 (108 Stat. 4165) is amended by striking
13 “under section 6944 of the Solid Waste Disposal Act (42
14 U.S.C. 6941 et seq.)” and inserting “under section 4004
15 of the Solid Waste Disposal Act (42 U.S.C. 6944)”.

16 **SEC. 7. AMERICAN INDIAN TRUST FUND MANAGEMENT RE-**
17 **FORM ACT OF 1994.**

18 (a) MAINTENANCE OF RECORDS.—Section
19 303(c)(5)(D) of the American Indian Trust Fund Man-
20 agement Reform Act of 1994 (108 Stat. 4247) is amended
21 by striking “made under paragraph (3)(B)” and inserting
22 “made under subparagraph (C)”.

23 (b) ADVISORY BOARD.—Section 306(d) of the Indian
24 Trust Fund Management Reform Act (25 U.S.C.

1 4046(d)) is amended by striking “Advisory Board” and
2 inserting “advisory board”.

3 **SEC. 8. INDIAN SELF-DETERMINATION AND EDUCATION AS-**
4 **SISTANCE ACT.**

5 (a) DEFINITIONS.—Section 4(j) of the Indian Self-
6 Determination and Education Assistance Act (25 U.S.C.
7 450b(j)) is amended by striking “That except as provided
8 the last proviso in section 105(a) of this Act,” and insert-
9 ing “That except as provided in paragraphs (1) and (3)
10 of section 105(a),”.

11 (b) CARRYOVER FUNDING.—Section 8 of the Indian
12 Self-Determination and Education Assistance Act (25
13 U.S.C. 13a) is amended by striking “the provisions of sec-
14 tion 106(a)(3)” and inserting “the provisions of section
15 106(a)(4)”.

16 (c) REPAYMENT OF FUNDS.—Section 5(d) of the In-
17 dian Self-Determination and Education Assistance Act
18 (25 U.S.C. 450c(d)) is amended by striking “106(a)(3)
19 of this Act” and inserting “106(a)(4)”.

20 (d) SELF-DETERMINATION CONTRACTS.—The first
21 sentence of the flush material immediately following sub-
22 paragraph (E) of section 102(a)(2) of the Indian Self-De-
23 termination and Education Assistance Act (25 U.S.C.
24 450f(a)(2)) is amended by striking “the second sentence

1 of this subsection” and inserting “the second sentence of
2 this paragraph”.

3 (e) CONTRACT OR GRANT PROVISIONS AND ADMINIS-
4 TRATION.—Section 105(a)(3)(C)(ii) of the Indian Self-Determination and Education Assistance Act (42 U.S.C.
5 450j(a)(3)(C)(ii)) is amended—

6 (1) in subclause (VII), by striking “chapter
7 483” and inserting “chapter 482”; and

8 (2) in subclause (IX), by striking “The Service
9 Control Act of 1965” and inserting “The Service
10 Contract Act of 1965”.

11 (f) APPROVAL OF CONSTRUCTION CONTRACTS.—Section 105(m)(4)(C)(v) of the Indian Self-Determination
12 and Education Assistance Act (25 U.S.C.
13 450j(m)(4)(C)(v)) is amended by striking “sections
14 102(a)(2) and 102(b) of section 102” and inserting “sub-
15 sections (a)(2) and (b) of section 102”.

16 **SEC. 9. INDIAN SELF-DETERMINATION CONTRACT REFORM**

17 **ACT OF 1994.**

18 Section 102(11) of the Indian Self-Determination
19 Contract Reform Act of 1994 (108 Stat. 4254) is amend-
20 ed by striking “subsection (e)” and inserting “subsection
21 (e) of section 105”.

1 **SEC. 10. AUBURN INDIAN RESTORATION.**

2 (a) ECONOMIC DEVELOPMENT.—Section 203 of the
3 Auburn Indian Restoration Act (25 U.S.C. 1300l–1) is
4 amended—

5 (1) in subsection (a)(2), by striking “as pro-
6 vided in section 107” and inserting “as provided in
7 section 207”; and

8 (2) in subsection (b), by striking “section 104”
9 and inserting “section 204”.

10 (b) INTERIM GOVERNMENT.—The last sentence of
11 section 206 of the Auburn Indian Restoration Act (25
12 U.S.C. 1300l–4) is amended by striking “Interim council”
13 and inserting “Interim Council”.

14 **SEC. 11. CROW BOUNDARY SETTLEMENT ACT OF 1994.**

15 (a) ENFORCEMENT.—Section 5(b)(3) of the Crow
16 Boundary Settlement Act of 1994 (108 Stat. 4636) is
17 amended by striking “provisions of subsection (b)” and
18 inserting “provisions of this subsection”.

19 (b) APPLICABILITY.—Section 9 of the Crow Bound-
20 ary Settlement Act of 1994 (108 Stat. 4640) is amended
21 by striking “The Act” and inserting “This Act”.

22 (c) ESCROW FUNDS.—Section 10(b) of the Crow
23 Boundary Settlement Act of 1994 (108 Stat. 4641) is
24 amended by striking “(collectively referred to in this sub-
25 section as the ‘Suspension Accounts’)” and inserting

1 “(collectively referred to in this section as the ‘Suspension
2 Accounts’)”.

3 **SEC. 12. TLINGIT AND HAIDA STATUS CLARIFICATION ACT.**

4 The first sentence of section 205 of the Tlingit and
5 Haida Status Clarification Act (25 U.S.C. 1215) is
6 amended by striking “Indian tribes” and inserting “In-
7 dian Tribes”.

8 **SEC. 13. NATIVE AMERICAN LANGUAGES ACT.**

9 Section 103 of the Native American Languages Act
10 (25 U.S.C. 2902) is amended—

11 (1) in paragraph (2), by striking “under section
12 5351(4) of the Indian Education Act of 1988 (25
13 U.S.C. 2651(4))” and inserting “under section
14 9161(4) of the Improving America’s Schools Act of
15 1994 (20 U.S.C. 7881(4))”; and

16 (2) in paragraph (3), by striking “section 4009
17 of Public Law 100–297 (20 U.S.C. 4909)” and in-
18 serting “section 9212(1) of the Improving America’s
19 Schools Act of 1994 (20 U.S.C. 7912(1))”.

20 **SEC. 14. PONCA RESTORATION ACT.**

21 Section 5 of the Ponca Restoration Act (25 U.S.C.
22 983c) is amended—

23 (1) by inserting “Sarpy, Burt, Platte, Stanton,
24 Holt, Hall, Wayne,” before “Knox”; and

1 (2) by striking “or Charles Mix County” and
2 inserting “, Woodbury or Pottawattomie Counties of
3 Iowa, or Charles Mix County”.

4 **SEC. 15. YAVAPAI-PRESCOTT INDIAN TRIBE WATER RIGHTS**
5 **SETTLEMENT ACT OF 1994.**

6 Section 112(b) of the Yavapai-Prescott Indian Tribe
7 Water Rights Settlement Act of 1994 (108 Stat. 4532)
8 is amended by striking “December 31, 1995” and insert-
9 ing “June 30, 1996”.

10 **SEC. 16. INDIAN HEALTH CARE IMPROVEMENT ACT.**

11 (a) DEFINITION OF HEALTH PROFESSION.—Section
12 4(n) of the Indian Health Care Improvement Act (25
13 U.S.C. 1603(n)) is amended—

14 (1) by inserting “allopathic medicine,” before
15 “family medicine”; and

16 (2) by striking “and allied health professions”
17 and inserting “an allied health profession, or any
18 other health profession.”.

19 (b) INDIAN HEALTH PROFESSIONS SCHOLAR-
20 SHIPS.—Section 104(b) of the Indian Health Care Im-
21 provement Act (25 U.S.C. 1613a(b)) is amended—

22 (1) in paragraph (3)—

23 (A) in subparagraph (A)—

24 (i) by striking the matter preceding
25 clause (i) and inserting the following:

1 “(3)(A) The active duty service obligation under a
2 written contract with the Secretary under section 338A
3 of the Public Health Service Act (42 U.S.C. 254l) that
4 an individual has entered into under that section shall,
5 if that individual is a recipient of an Indian Health Schol-
6 arship, be met in full-time practice, by service—”;

7 (ii) by striking “or” at the end of
8 clause (iii);

9 (iii) by striking the period at the end
10 of clause (iv) and inserting “; or”; and

11 (iv) by adding at the end the following
12 new clause:

13 “(v) in an academic setting (including a pro-
14 gram that receives funding under section 102, 112,
15 or 114, or any other academic setting that the Sec-
16 retary, acting through the Service, determines to be
17 appropriate for the purposes of this clause) in which
18 the major duties and responsibilities of the recipient
19 are the recruitment and training of Indian health
20 professionals in the discipline of that recipient in a
21 manner consistent with the purpose of this title, as
22 specified in section 101.”;

23 (B) by redesignating subparagraphs (B)
24 and (C) as subparagraphs (C) and (D), respec-
25 tively;

1 (C) by inserting after subparagraph (A)
2 the following new subparagraph:

3 “(B) At the request of any individual who has entered
4 into a contract referred to in subparagraph (A) and who
5 receives a degree in medicine (including osteopathic or
6 allopathic medicine), dentistry, optometry, podiatry, or
7 pharmacy, the Secretary shall defer the active duty service
8 obligation of that individual under that contract, in order
9 that such individual may complete any internship, resi-
10 dency, or other advanced clinical training that is required
11 for the practice of that health profession, for an appro-
12 priate period (in years, as determined by the Secretary),
13 subject to the following conditions:

14 “(i) No period of internship, residency, or other
15 advanced clinical training shall be counted as satis-
16 fying any period of obligated service that is required
17 under this section.

18 “(ii) The active duty service obligation of that
19 individual shall commence not later than 90 days
20 after the completion of that advanced clinical train-
21 ing (or by a date specified by the Secretary).

22 “(iii) The active duty service obligation will be
23 served in the health profession of that individual, in
24 a manner consistent with clauses (i) through (v) of
25 subparagraph (A).”;

1 (D) in subparagraph (C), as so redesign-
2 nated, by striking “prescribed under section
3 338C of the Public Health Service Act (42
4 U.S.C. 254m) by service in a program specified
5 in subparagraph (A)” and inserting “described
6 in subparagraph (A) by service in a program
7 specified in that subparagraph”; and

8 (E) in subparagraph (D), as so redesign-
9 nated—

10 (i) by striking “Subject to subpara-
11 graph (B),” and inserting “Subject to sub-
12 paragraph (C),”; and

13 (ii) by striking “prescribed under sec-
14 tion 338C of the Public Health Service Act
15 (42 U.S.C. 254m)” and inserting “de-
16 scribed in subparagraph (A)”;

17 (2) in paragraph (4)—

18 (A) in subparagraph (B), by striking the
19 matter preceding clause (i) and inserting the
20 following:

21 “(B) the period of obligated service described in
22 paragraph (3)(A) shall be equal to the greater of—
23 ”; and

1 (B) in subparagraph (C), by striking “(42
2 U.S.C. 254m(g)(1)(B))” and inserting “(42
3 U.S.C. 254l(g)(1)(B))”;

4 (3) in paragraph (5), by adding at the end the
5 following new subparagraphs:

6 “(C) Upon the death of an individual who receives
7 an Indian Health Scholarship, any obligation of that indi-
8 vidual for service or payment that relates to that scholar-
9 ship shall be canceled.

10 “(D) The Secretary shall provide for the partial or
11 total waiver or suspension of any obligation of service or
12 payment of a recipient of an Indian Health Scholarship
13 if the Secretary determines that—

14 “(i) it is not possible for the recipient to meet
15 that obligation or make that payment;

16 “(ii) requiring that recipient to meet that obli-
17 gation or make that payment would result in ex-
18 treme hardship to the recipient; or

19 “(iii) the enforcement of the requirement to
20 meet the obligation or make the payment would be
21 unconscionable.

22 “(E) Notwithstanding any other provision of law, in
23 any case of extreme hardship or for other good cause
24 shown, the Secretary may waive, in whole or in part, the

1 right of the United States to recover funds made available
2 under this section.

3 “(F) Notwithstanding any other provision of law,
4 with respect to a recipient of an Indian Health Scholar-
5 ship, no obligation for payment may be released by a dis-
6 charge in bankruptcy under title 11, United States Code,
7 unless that discharge is granted after the expiration of the
8 5-year period beginning on the initial date on which that
9 payment is due, and only if the bankruptcy court finds
10 that the nondischarge of the obligation would be uncon-
11 scionable.”.

12 (c) REIMBURSEMENT FROM CERTAIN THIRD PAR-
13 TIES OF COSTS OF HEALTH SERVICES.—Section 206 of
14 the Indian Health Care Improvement Act (16 U.S.C.
15 1621e) is amended—

16 (1) in subsection (a)—

17 (A) in the matter preceding paragraph

18 (1)—

19 (i) by striking “Except as provided”
20 and inserting “(a) RIGHT OF RECOV-
21 ERY.—Except as provided”;

22 (ii) by striking “the reasonable ex-
23 penses incurred” and inserting “the rea-
24 sonable charges billed”;

1 (iii) by striking “in providing” and in-
2 serting “for providing”; and

3 (iv) by striking “for such expenses”
4 and inserting “for such charges”; and

5 (B) in paragraph (2), by striking “such ex-
6 penses” each place it appears and inserting
7 “such charges”;

8 (2) in subsection (b), by striking “(b) Sub-
9 section (a)” and inserting “(b) RECOVERY AGAINST
10 STATE WITH WORKERS’ COMPENSATION LAWS OR
11 NO-FAULT AUTOMOBILE ACCIDENT INSURANCE
12 PROGRAM.—Subsection (a)”;

13 (3) in subsection (c), by striking “(c) No law”
14 and inserting “(c) PROHIBITION OF STATE LAW OR
15 CONTRACT PROVISION IMPEDIMENT TO RIGHT OF
16 RECOVERY.—No law”;

17 (4) in subsection (d), by striking “(d) No ac-
18 tion” and inserting “(d) RIGHT TO DAMAGES.—No
19 action”;

20 (5) in subsection (e)—

21 (A) in the matter preceding paragraph (1),
22 by striking “(e) The United States” and insert-
23 ing “(e) INTERVENTION OR SEPARATE CIVIL
24 ACTION.—The United States”; and

1 (B) by striking paragraph (2) and insert-
2 ing the following new paragraph:

3 “(2) while making all reasonable efforts to pro-
4 vide notice of the action to the individual to whom
5 health services are provided prior to the filing of the
6 action, instituting a civil action.”;

7 (6) in subsection (f), by striking “(f) The Unit-
8 ed States” and inserting “(f) SERVICES COVERED
9 UNDER A SELF-INSURANCE PLAN.—”; and

10 (7) by adding at the end the following new sub-
11 sections:

12 “(g) COSTS OF ACTION.—In any action brought to
13 enforce this section, the court shall award any prevailing
14 plaintiff costs, including attorneys’ fees that were reason-
15 ably incurred in that action.

16 “(h) RIGHT OF RECOVERY FOR FAILURE TO PRO-
17 VIDE REASONABLE ASSURANCES.—The United States, an
18 Indian tribe, or a tribal organization shall have the right
19 to recover damages against any fiduciary of an insurance
20 company or employee benefit plan that is a provider re-
21 ferred to in subsection (a) who—

22 “(1) fails to provide reasonable assurances that
23 such insurance company or employee benefit plan
24 has funds that are sufficient to pay all benefits owed

1 by that insurance company or employee benefit plan
 2 in its capacity as such a provider; or

3 “(2) otherwise hinders or prevents recovery
 4 under subsection (a), including hindering the pursuit
 5 of any claim for a remedy that may be asserted by
 6 a beneficiary or participant covered under subsection
 7 (a) under any other applicable Federal or State
 8 law.”.

9 **SEC. 17. REVOCATION OF CHARTER OF INCORPORATION**
 10 **OF THE MINNESOTA CHIPPEWA TRIBE**
 11 **UNDER THE INDIAN REORGANIZATION ACT.**

12 The request of the Minnesota Chippewa Tribe to sur-
 13 render the charter of incorporation issued to that tribe on
 14 September 17, 1937, pursuant to section 17 of the Act
 15 of June 18, 1934, commonly known as the “Indian Reor-
 16 ganization Act” (48 Stat. 988, chapter 576; 25 U.S.C.
 17 477) is hereby accepted and that charter of incorporation
 18 is hereby revoked.

19 **SEC. 18. LAND GRANT STATUS FOR 1994 INSTITUTIONS.**

20 Section 533(c) of the Equity in Educational Land-
 21 Grant Status Act of 1994 (7 U.S.C. 301 note) is amend-
 22 ed—

23 (1) in paragraph (4)(A), by striking the “In-
 24 dian student count (as defined in section 390(3) of
 25 the Carl D. Perkins Vocational and Applied Tech-

1 nology Education Act (20 U.S.C. 2397h(3))” and
2 inserting “Indian student count, as determined
3 under paragraph (5)””; and

4 (2) by adding at the end the following new
5 paragraph:

6 “(5) INDIAN STUDENT COUNT.—For purposes
7 of paragraph (4), the Indian student count shall
8 be—

9 “(A) for the 1994 Institutions listed in
10 paragraphs (24), (25), and (27) of section 522,
11 determined for those institutions in the same
12 manner as an Indian student count is deter-
13 mined for tribally controlled community colleges
14 pursuant to the definition of ‘Indian student
15 count’ under section 2(7) of the Tribally Con-
16 trolled Community College Assistance Act of
17 2978 (25 U.S.C. 1801(7)); and

18 “(B) for all of the remaining 1994 Institu-
19 tions listed in section 522, determined in ac-
20 cordance with the definition of ‘Indian student
21 count’ under section 390(3) of the Carl D. Per-
22 kins Vocational and Applied Technology Edu-
23 cation Act (20 U.S.C. 2397h(3)).”.

1 **SEC. 19. ADVISORY COUNCIL ON CALIFORNIA INDIAN POL-**
2 **ICY ACT OF 1992.**

3 Section 5(6) of the Advisory Council on California In-
4 dian Policy Act of 1992 (106 Stat. 2133; 25 U.S.C. 651
5 note) is amended by striking “18 months” and inserting
6 “36 months”.

7 **SEC. 20. SAN CARLOS APACHE TRIBE WATER RIGHTS SET-**
8 **TLEMENT ACT OF 1992.**

9 Section 3711(b)(1) of the San Carlos Apache Tribe
10 Water Rights Settlement Act of 1992 (title XXXVII of
11 Public Law 102–575) is amended by striking “December
12 31, 1995” and inserting “December 31, 1996”.

13 **SEC. 21. IN-LIEU FISHING SITE TRANSFER AUTHORITY.**

14 Section 401 of Public Law 100–581 (102 Stat. 2944–
15 2945) is amended by adding at the end the following new
16 subsection:

17 “(g) The Secretary of the Army is authorized to
18 transfer funds to the Department of the Interior to be
19 used for purposes of the continued operation and mainte-
20 nance of sites improved or developed under this section.”.

21 **SEC. 22. ADOLESCENT TRANSITIONAL LIVING FACILITY.**

22 Notwithstanding any other provision of law, any
23 funds that were provided to the Ponca Indian Tribe of
24 Nebraska for any of the fiscal years 1992 through 1995,
25 and that were retained by that Indian tribe, pursuant to
26 a self-determination contract with the Secretary of Health

1 and Human Services that the Indian tribe entered into
2 under section 102 of the Indian Self-Determination and
3 Education Assistance Act (25 U.S.C. 450f) to carry out
4 programs and functions of the Indian Health Service may
5 be used by that Indian tribe to acquire, develop, and main-
6 tain a transitional living facility for adolescents, including
7 land for that facility.

Passed the Senate October 31, 1995.

Attest: KELLY D. JOHNSTON,
Secretary.

S 325 RFH—2